

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:19-CR-00086-FDW-SCR**

**UNITED STATES OF AMERICA**

**v.**

**JOHN HENRY MOORE,**

**Defendant.**

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**ORDER**

**THIS MATTER** is before the Court on Defendant’s Motion to Stay, (Doc. No. 274), filed pro se. The Government has responded in opposition, (Doc. No. 277), and this matter is ripe for ruling. For the reasons stated in the Government’s opposition brief, (Doc. No. 277), the Motion to Stay is DENIED.


In short, Defendant seeks a stay in this case “pending a ruling on [his] petition for a[n] Interlocutory Appeal,” which asks the court to “act before sentencing” currently scheduled for July 27, 2023. (Doc. No. 274). In determining whether to stay a case, the Court considers four factors: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” Nken v. Holder, 556 U.S. 418, 426, 129 S. Ct. 1749, 1756, 173 L. Ed. 2d 550 (2009) (quotation and citation omitted). Defendant has failed to make a ‘strong showing’ that he is likely to succeed on the merits of his petition for an interlocutory appeal, particularly where the Fourth Circuit has already issued a letter in response to his petition clearly indicating, “This court will treat the notice of appeal as filed as of the date the district court enters its judgment and will docket the appeal following entry of judgment. Please notify this court upon entry of the judgment.” (Doc.

No. 276). Moreover, Defendant has failed to show how the other factors favor a stay, particularly where his motion for a new trial will be reviewed at the conclusion of this case after Defendant is sentenced.

**IT IS, THEREFORE, ORDERED** that the Motion to Stay, (Doc. No. 274), is DENIED.

**IT IS SO ORDERED.**

Signed: June 7, 2023

  
Frank D. Whitney  
United States District Judge

